Seconded by Mr. Ramanatha Rao.

Carried.

CRIMINAL PROCEDURE CODE AMENDMENT BILL.

Mr. Krishnaswamy Rao.—I beg to present the report of the Select Committee on the Criminal Procedure Code Amendment Bill. Its consideration has, of course, to await the passing of the Penal Code Bill which is before the Council.

WILLS BILL.

Mr. Krishnaswamy Rao.—I beg to present the report of the Select Committee on the Wills Bill. The Bill is an important one and I think it has not been sufficiently long before the public in its present revised form. I would therefore move that its consideration be deferred.

Seconded by Mr. Thanu Pillai.

Carried.

IRRIGATION BILL.

Mr. Thanu Pillai.—Before taking up the amendments of which I have given notice I wish to make one or two observations of a general kind. There appears to be an impression that the main object of this Bill is to throw upon the shoulders of the ryots more responsibilities in regard to the construction, restoration and maintenance of irrigation works than ever before. Some of the apparently coercive provisions of the Bill may have led to this view; but as a matter of fact the effect of the Bill is to considerably widen the sphere of the State's obligations and circumscribe the well-understood, if largely neglected, duties of the ryots. As a rule, except in the four southern taluqs and in Shencottah, Government have not concerned themselves directly with irrigation works to any large extent. The responsibility created by the Bill extends, it will be seen, to the whole State in respect of the more important works. In regard to minor works the existing rights are maintained in the taluqs above named, and the necessary power is taken in view to assist the ryots in improving such works in the other taluqs. The duty imposed on the ryots of keeping such works in efficiency is no novelty even in South Travancore where the rule, honored though it may be more in the breach than in the observance, is that the ryots concerned should maintain the works once completely restored by Government. I am sure my friend Mr. Kuruvila whose long experience as the chief Irrigation Officer in South Travancore entitles him to speak with authority on the subject will bear me out in this statement. I would read a passage from a Memorandum of the late Dewan Mr. Ramiengar which clearly indicates the nature and extent of the duties of the ryots in regard to irrigation works in the South:—

"As each tank is thoroughly repaired or restored, it should be made over to the care of the ryots holding cultivation under it, and a writing taken from them binding them to maintain it in good condition by executing annually before the commencement of each cultivation season, the necessary repairs required to it in the way of removing any silt brought down during the preceding rainy season, clearing sluices, filling up gullies &c."

The provision relating to Petty Irrigation works may with some reason be viewed as an innovation. But even here the practice in recent years has been to leave all such works to the ryots themselves; and no one, I take it, will seriously question the expediency of defining and enforcing this practice. In making these observations, all that I wish to point out is that it is far from the intention of this Bill to divest the State of any share of its responsibility or to enhance that of the ryots. If the amendments which I would presently move meet with the Council's acceptance, the Bill would bring under the control of Government all irrigation works of importance throughout the country, enable the willing and industrious ryots to improve, with such State aid as may be needed, works which fall outside such control and teach the people habits of self-help and combination for legitimate purposes.

With these remarks I would go on to the amendments on the paper *seriatim*.

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SECTION 2.

In Sub-section (2) I would, for the words "such irrigation channels reservoirs and other works as may be declared to be major irrigation works" substitute "all works irrigating an area of land exceeding two hundred acres;" and as a consequential alteration omit section 3. The definition of 'Major Irrigation work' would then read thus:—"shall mean and include all works irrigating an area of land exceeding two hundred acres."

The proposed amendment, it will be noted, virtually restores the definition adopted by the Select Committee who fixed the figure 200 as bringing within the definition "many works which it is expedient, should be constructed, repaired and maintained at the entire cost of Government." The threefold classification of Major, Minor and Petty works is doubtless aribitrary, but is intended to indicate the varying responsibility of the State and the ryots in respect of these works. The definition as last revised by the Council is too indefinite. The groups overlap one another. It will be remembered that the consideration which induced the Council to modify the definition recommended by the Select Committee was the doubtful expediency, especially on financial grounds, of an immediate transfer to direct State control of a considerable portion of the irrigation works which are now entirely left to the ryots or I should say, to themselves. The modified definition it was thought would enable the Government to effect the transfer gradually in reference to the conditions and needs of each locality. But I would ask the Council to consider whether having regard to the circumstances and the habits of the ryots generally, the better policy would not be to take up the responsibility at once, the financial obligation incurred being adjusted according to the circumstances of each case under the provisions of section 19. I am fully persuaded that this course is altogether preferable in the interests alike of the ryots and the Government revenue.

Mr. Kuruvila.—I fully support the amendment. Although I have not had an opportunity of expressing my opinion on the definition of the term adopted by the Select Committee, I have always been of opinion that that was the proper and workable description.

Carried.

SUB-SECTION. 3.

Mr. Thanu Pillai.—In Sub-section 3, I beg to propose that the words "and all other Irrigation works which, according to existing usage, are maintained by the ryots at their cost" be omitted, and "irrigation works" be substituted for "tanks." This removes the charge of indefiniteness which extends to the definition of Petty works as well.

Seconded by Mr. Ramanatha Rao.

Carried.

SUB-SECTION 8.

Mr. Thanu Pillai.—I would add a Sub-section to define the word 'Irrigation' thus:—'The term 'Irrigation' with its grammatical variations shall include 'drainage' with its corresponding variations.'

The word is defined by implication in the definition of 'Irrigation work.' But I think it well to explain the word separately as it occurs in several parts by itself.

Seconded by Mr. Kuruvila.

Carried.

SECTION 7.

Mr. Thanu Pillai.—The next amendment is in section 7:—For the word 'and' beginning the fourth line substitute 'or.'

As the section stands two conditions should be satisfied before a work is put in hand—(1) the majority of proprietors should agree and (2) the Division Peishcar should be satisfied that the work is necessary in the general interests of the ryots. The object of the amendment is to make either of these conditions sufficient to justify the execution of a work. As regards the first condition there would I trust

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be no difference of opinion as to the soundness of the principle involved. Where a majority of the persons concerned are in favour of a work, it may be safely presumed that the work is useful and necessary in the general interests of the whole body. But where the majority have not signified their consent it may be doubted whether it is expedient to incur an outlay which has to be compulsorily recovered from the ryots. It may be argued that the ryots are the best guardians of their own welfare and any paternal interference of the kind contemplated in the amendment is injudicious. This is no doubt a serious objection in the abstract; but the question should be viewed entirely in its practical aspect. In many cases it will be extremely difficult to reach the majority of proprietors who, it will be noted, are the owners and not the occupiers of the land. The owners often live far away from the land. Again the majority of proprietors may be a single individual owning extensive estates to whom the improvement of a particular petty irrigation work would be a matter of no concern, while the minority may be composed of several petty ryots who depend entirely on the land under that work. It will thus be seen that under the section as it stands it will be possible for a listless, apathetic, selfish or scheming majority to starve out the minority. It will be observed that the limitation contained in the words 'in the general interests of the proprietors' is a sufficient safeguard against any possible arbitrary or improper use of the discretion by the Peishcar.

Mr. Prince seconded.

Mr. Rama Vurma Rajah.—I must strongly oppose the proposed amendment. Government should not, in my opinion, have power to carry out the works in spite of the opposition of the majority. The proprietors as being directly interested in the works are obviously the best judges. Government officers are apt to interfere needlessly.

Mr. Ramanatha Rao.—I am inclined to agree with my friend. I have heard of cases of such unnecessary interference in British India.

President.—In these cases it will often be very difficult to bring about a satisfactory combination. In all attempts to help the cause of agriculture through the ryots themselves, the complaint has always been they cannot be induced to combine.

Mr. Kuruvilla.—I fully see the force of the President's remark. But I should think that, as a rule, the opinion of the majority of the proprietors concerned is a safer guide. When they oppose a particular work the natural presumption ought to be that they have good grounds for such attitude.

Mr. Prince.—I had better just state my reasons for seconding this proposition. The section, as it stands, requires as an indispensable condition not only that the application is agreed to by the majority of the proprietors concerned but also that in the opinion of the enquiring Peishcar, it should be carried out in the general interests of the proprietors. Very often, of course, what is to the interests of the proprietors will have the sympathy of the majority. But, as has been pointed out by the learned mover, great hardship may be caused to a number of landholders by the perverse or malicious attitude and perhaps even the reckless indifference of the so-called majority. The necessity becomes all the more apparent in view of the definition of the expression 'Majority of Proprietors.' The dominant factor there is the proportion of the acreage held, not the number of the ryots. The bulk of the land sought to be benefited may be owned by a single individual who with a view to annoy the other perhaps numerous holders into selling their estates or make them suffer otherwise, may withhold assent. The majority may be one individual and the minority 50. In such cases the discretionary power proposed to be vested in the Government officer will be found of real service.

After some further discussion, the amendment was put to the vote and carried by majority.

SECTIONS, 8, 13, 15, 18, 9, 10, 11, 12, 13, 14, 16, 17, AND 18.

Mr. Thanu Pillai.—I would ask the Council to consider the next three amendments together viz.—

(i) Omit section 8, the following words of section 13—"The cost of the works .....from time to time", section 15, the following words of section 18—"such cost shall be a first charge.....recovered", and the Proviso.

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(ii) Alter sections 9, 10 11, 12, 13, 14, 16, 17 and 18 into sections, 7, 8, 9, 10, 11, 12, 13, 14 and 15 respectively.

(iii) Put in the following as section 16: "The cost of any work executed under section 7 (new section 6), (para 1 of) section 13 (new section 11) section 14 (new section 12) and section 18 (new section 15) shall be a first charge on the lands benefited by such work, and shall be recovered from such lands as arrears of public revenue in such equal yearly instalments not less than five as may be fixed by Our Government from time to time."

These amendments are mostly verbal, the object being merely to save repetition. The provisions as to recovery of cost are repeated in different places in the Bill. All these have now been recast into one comprehensive and common section and the numbering of the connected sections correspondingly altered.

Seconded by Mr. Ramanatha Rao.

Carried.

SECTION 13.

Mr. Thanu Pillai.—The reasons adduced in favour of giving the responsible Revenue officer discretionary power to carry out desirable irrigation works even where the majority do not agree apply with equal, if not greater force, to minor works. I need not I think go over the ground again. I propose that the following be added as second para to section 13 (new section 11).—"In any case in which the majority of proprietors do not agree, if it be found after duly considering their objections that the work proposed should be executed in the interests of the proprietors, the Dewan may order the work to be carried out at the cost of Our Government."

Seconded by Mr. Ramanatha Rao.

Carried by majority.—Mr. Rama Vurma Rajah abstaining from voting and Mr. Kuruvila voting against the amendment.

SECTION 14.

Mr. Thanu Pillai.—I have to suggest a purely verbal alteration viz, to omit the words 'in any minor irrigation work,' in the first line and substitute 'any minor irrigation' for 'such' in the second line. This makes the wording strictly accurate.

Seconded by Mr. Prince.

Carried.

SECTION 18.

Mr. Thanu Pillai.—The next amendment is the last, viz.,—Read the first para of section 19 as section 17; and the second para as section 18. In the second para (new section 18), after the word 'constructed' in the third line add 'restored or repaired after the passing of this Regulation'; and convert the full stop into a comma at the end of the section and add the following—"and also from the duty of maintaining the works under section 13."

As embodying a salient and leading feature, the 2nd para should, I think, be treated as a separate section.

There can hardly be any objection to the proposed addition of the words 'repaired or restored.' By far the greater portion of the work which has to be done is in the shape of repair or restoration; and very little indeed of original construction if we exclude such great schemes as the Kodayar Dam and Reservoir. The omission of these words in the original section was a mere oversight. As for the remaining words "after the passing of this Regulation", they are put in to remove a possible doubt as to whether the cess leviable under this section applies to works carried out before the Regulation comes into force. No retrospective effect is of course intended and the proposed amendment makes the point clear.

The proposed addition at the end of the section will afford great relief to the ryots. Where a cess is levied in connection with an irrigation work, it is only just that the entire management of the work should be with the Government and the ryots should be free from all further liabilities.

Seconded by Mr. Prince.

Carried.

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Mr. Thanu Pillai then moved that the Bill as revised be finally read on a future day of which notice shall be given.

The motion was put and agreed to.

GAME PRESERVATION BILL.

Section 3.

Mr. Bensley.—Since the last meeting of the Council, I have had the advantage of perusing certain important papers connected with game preservation as it obtains in British India and I have satisfied myself that the Bill as it now stands amended requires very little further alteration or discussion. But one or two points have suggested themselves as deserving re-consideration. I would put them before the Council in the shape of amendments.

I beg to propose that in line 1, para 2, section 3, the words "any person defending his life from the attacks of wild animals or" be inserted between "preclude" and "proprietors." It is necessary to explicitly provide for self-defence and this is effected by the proposed amendment.

Seconded by Mr. Prince.

Carried.

Section 5.

Mr. Bensley.—I have only one more amendment to move, viz.,—Omit the words "wearing the prescribed dress or badge of his department"—lines 1 and 2.

By prescribing a distinctive dress or badge, certain classes of servants who should I think have the power conferred by the section are excluded. The amendment enables such servants to exercise these powers subject to the necessary restrictions.

Seconded by Mr. Prince.

Carried.

Mr Bensley then moved that the Bill be read finally on a future day of which notice shall be given.

The motion was put and agreed to.

LEGISLATIVE COUNCIL REGULATION AMENDMENT BILL.

Mr. Krishnaswamy Rao.—I beg to move that the principles of the Council Bill be affirmed. These principles are (1) that legislation on matters political or coming within the sphere of imperial policy be excluded from the jurisdiction of the Council, (2) that in the nomination of non-official members, some system of election suitable to our conditions be followed under such rules as the Government may be pleased to prescribe from time to time. I have stated my reasons for the adoption of these principles in the statement of Objects and Reasons and also in the speech introducing the Bill.

Mr. Rama Vurma Rajah.—I hope I will be allowed to say a few words regarding the principle of the "Legislative Council Regulation Amendment Bill."

To the best of my knowledge Regulation II of 1063 has been working most satisfactorily. Nobody has, as far as I am aware, ever complained of its working defectively. The reason given in the statement of Objects and Reasons for amending the Travancore Legislative Council Regulation is that it is framed on the lines of the Indian Councils Act as it stood in 1888. The Indian Councils Act has since been amended. Hence Regulation II of 1063 should also be amended. I dare say I doubt if there is much strength in this reasoning. I am myself a great admirer of British models. If we want now to reconstitute our Legislative Council on the lines of the Indian Councils Act let us do so by all means. In remodelling the Indian Councils a step decidedly in the right direction has been made by introducing "a system of debating, permission being given to discuss the annual Budget" and also "under strict rules to use the right of interpellation as it is called or of asking questions about things in general." If we are not yet prepared to introduce these novelties which are the chief distinguishing

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